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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/003,098	01/06/98	KNOWLTON E	16904-727

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PAUL DAVIS
WILSON SONSINI GOODRICH AND ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

EXAMINER	
SHAY,D	
ART UNIT	**PAPER NUMBER**
3739	6

DATE MAILED: 01/26/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)	
Examiner	Group Art Unit	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE — 3 — MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☑ Responsive to communication(s) filed on April 27, 1998.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 1-68 is/are pending in the application.

Of the above claim(s)_____ is/are withdrawn from consideration.

☐ Claim(s)_____ is/are allowed.

☑ Claim(s) 1-68 is/are rejected.

☐ Claim(s)_____ is/are objected to.

☐ Claim(s)_____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on_____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on_____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number)_____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received:_____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other_____

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- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☑ Responsive to communication(s) filed on October 26, 1998.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 1-17 is/are pending in the application.

Of the above claim(s) 1-15 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☑ Claim(s) 16+17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

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☐ Other _____

Office Action Summary

Claims 1-~~69~~ 68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 it is unclear what additional step is recited in the "tighting..." step, ~~recited~~ given the recitation already set forth in the "delivering..." step. In claim 3 exactly what constitutes "reduced cell nerosis is" unclear. It claim 3-20 no further method step is recited. In claim 28 the recitation "electrolytic media means" is indefinite as it recites no positive function, also to the extent that claim 28 is intended to encompass a device wherein the electrode is in contact with the body it is indefinite. In claims 34-37 it is unclear what further stucture is recited thereby. In claim 39 there is no function posetively recited in the "~~senson~~ sensor means". Claims 1 and 41 are substantial duplicates. The foregoing is merely exemplary and is not intended to be an exhaustive list of the claims indefinteness.

Claims 1-27 and 41-68 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-44 of copending Application No. 09/003,120. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use such a method to treat loose skin.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-27 and 41-68 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 and 35-60 of copending Application No.09/003,423 Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use such a method to treat loose skin.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-27 and 41-68 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-34 and 56-89 of copending Application No. 09/003,180. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use such a method to treat loose skin.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-27 and 41-68 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 55-65 are of copending Application No. 08/942,274. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use such a method to treat loose skin..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-27 and 41-68 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 31-54- of copending Application No. 08/990,494. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use such method to treat loose skin.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-27 and 41-68 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5-10, 12, 13, and 15-29 of copending Application No. 08/825,443. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use such a method to treat loose skin.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-27 and 41-68 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8, 12-14, 16-20, and 55-61 of copending Application No. 08/583,815. Although the conflicting claims are not identical,

they are not patentably distinct from each other because it would have been obvious to use such s method to treat loose skin.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 28-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 4, 12-14, 21-29, 35-38, and 46-60 of copending Application No. 08/827,237. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use an ionic liquid to cool the surface.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 28-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 22-34 of copending Application No. 09/003,423. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use ionic liquid to cool the surface.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 28-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 35-55 of copending

Application No. 09/003,180. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use an ionic liquid to cool the surface..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 28-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims ~~1-30~~ 1-54 of copending Application No. 08/942,274. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use an ionic liquid to cool the surface.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 28-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims ~~1-54~~ 1-30 of copending Application No. 09/990,494. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use an ionic liquid to cool the surface..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 28-40 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Eggers et al ('909).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-27 and 41-68 rejected under 35 U.S.C. 103(a) as being unpatentable over Neefe in combination with Sand ('709). Neefe teaches a collagen shrinkage method using various types of energy. Sand ('709) teach a method of shrinking collogen using light. It would have been obvious to the artisain of ordinary skill to employ various forms of heating energy in the method of Sand ('709) since these are equivalents as taught by Neefe, thus producing a method such as claimed.

Any inquiry concerning this communication should be directed to David Shay at telephone number (703) 308-2215.

David Shay:bhw
December 30, 1998

DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330